

REMARKS

Favorable reconsideration of this Application in light of the following discussion is respectfully requested.

After entry of the foregoing Amendment, Claims 2-8, 10-13, 15, and 16 remain pending in the present Application. No new matter has been added.

By way of summary, the Official Action presents the following issue: Claims 2-8, 1-13, 15, and 16 stand rejected under 35 U.S.C. § 102 a being anticipated by Gruse et al. (U.S. Patent No. 6,389,538, hereinafter Gruse).

REJECTION UNDER 35 U.S.C. § 102

The outstanding Official Action has rejected Claims 2-8, 1-13, 15, and 16 under 35 U.S.C. § 102 a being anticipated by Gruse. The Official Action contends that Gruse describes all of the Applicants' claimed features. Applicants respectfully traverse the rejection.

Claim 2, recites, *inter alia*, an information processing method, including:

storing information for discriminating contents duplicated in the past and temporal data as to a **previous start time of duplication** of said contents into a database;

... deciding whether copying of the contents discriminated by the discriminating information is allowed in accordance with a comparison between the temporal data stored in the database and current time; and

duplicating the contents in accordance with said decision whether copying of the content is allowed,

wherein the duplication of the content is prohibited when an interval of time between the current time and the **previous start time** of duplication of said content specified by the temporal data stored in the database is less than predetermined amount of time. (emphasis added)

Gruse describes a system for tracking usage of digital content on user devices. The platform enables content providers (101) to distribute content to customers via a transmission

infrastructure (107) and hosting site (111).<sup>1</sup> Specifically, content is packaged to form secure containers (SE) for delivery. For example, as outlined in Gruse at steps 142-148, throughout column 21, the user purchasing a secure container initiates a series of communications to decrypt the secure container by accessing encryption keys of a clearing house (105) for obtaining a symmetric key for decrypting content. In this way, the server sends a content package to a user requesting the content. The user may play back (or copy) the content by transmitting a request to the server, which includes data of the secure container. The server checks the data and transmits a license to the user and records usage of the content.

Conversely, in an exemplary embodiment of the Applicants' advancements as recited in Claim 2, an information processing apparatus and associated method are provided wherein the duplication of previously duplicated content is prohibited when an interval of time between a **present time** and **the start time of the prior duplication** of the content is less than a predetermined period. This feature enables the processing apparatus and associated method of the present advancements to prevent mass duplication of already duplicated content.<sup>2</sup>

The Official Action of October 24, 2006, Fails to Present a *Prima Facie* Case of Anticipation

In the Official Action of October 24, 2006, it is noted that:

For instance, Gruse discloses that the control and enforcement of content usage can result "according to the conditions of purchase or license, such as permitted number of copies, number of plays, and the time interval or term the license may be valid (column 9, lines 65-67; emphasis added). As disclosed by Gruse, the certificate revocation lists include time stamps (column 39, lines 51-53).

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<sup>1</sup> See Fig. 1D.

<sup>2</sup> Application at page 70, lines 16-20

While the Official Action cites the language “time interval” of Gruse, as corresponding to the Applicants’ claimed advancements, Applicants note that the identified time interval has absolutely nothing to do with a previous time of duplication. The fact that Gruse describes a certificate revocation based upon a time interval does not in any way foreclose the use of a “time interval” with respect to other copy protection techniques. Moreover, Applicants note that the current rejection is applied under 35 U.S.C. § 102 which requires that each and every element of the Applicants’ claim be identified in the cited reference. A time interval for certificate revocation as described at column 9 line 65-67 of Gruse as well as the time stamps of column 39, lines 51-53 are not in any way related to a previous start time of a duplication of content as recited in the Applicants’ Claim 2.

Additionally, the Official Action notes that:

Moreover, Gruse discloses that various parameters and conditions can be utilized to discriminate content in order to determine whether duplication or copying of content is permissible. Such parameters are ascribed values by Gruse, namely, a D value identifies that date and time the SC was created (column 42, lines 45-52). An E value identifies that date and time the SC expires (column 42, lines 53-55). A comparison of such values is compared with the date and time at the clearinghouse (current time) to determine enforcement based on the above noted parameters, as claimed by applicant.

As note above, the identified description of Gruse, while showing the use of “timing” has no other relation to the Applicants’ claims. **In other words, while Gruse may describe various parameters and conditions utilized to discriminate content, it does not describe discriminating previously duplicated content based upon a previous duplication time and a present time as recited in the Applicants’ claims.** Such a description is required in order for Gruse to be properly applied against the current claims under 35 US.C. § 102.

Finally, the Official Action notes at page 3 that “since applicant has only argued that above limitation with regard to the claims at hand, the remaining limitation are conceded as being anticipated by the cited reference.” Applicants are confused as to why this statement

has been provided in the record. Applicants have made no such concession in the previous filings and, to the extent that the Official Action is of the opinion that this statement is consistent with US law, Applicants respectfully invite the Examiner to provide the citation in support of this proposition.

Moreover, the Official Action goes on to state that:

Thus, the only issue upon review is whether a timing comparison is made between a time of creation of content, time of expiration (predetermined time) and the current time at the clearinghouse. It is respectfully submitted that the cited reference anticipates applicant's claim language as recited.

Applicants are confused by the above discussion of the Official Action. Applicants' claims do not recite the timing comparison between a time of creation of content and a time of expiration. Moreover, Applicants' claims recite nothing concerning a "clearinghouse". It appears as though the Official Action is confusing the Applicants' claims with the Gruse reference. As noted above, this language may be an adequate description of the Gruse reference; however, Applicants' claims recite something entirely different. Namely, Applicants' claims recite comparing a previous start time of duplication to a present time for determining whether or not to allow a further duplication.

While Gruse provides a content usage control layer (505) to enforce conditions, or restrictions, imposed on the use of content (113), these conditions merely specify the number of plays allowed for content or whether or not a secondary copy of the content is allowed. Gruse does not disclose, or suggest, the prohibition of content duplication when an interval of time between the current time and the previous start time of duplication of content is less than the predetermined amount of time, as currently recited in Applicants' Claim 2, or any claim depending therefrom. Likewise, as independent Claim 3 recites substantially similar limitations to that discussed above, Applicants respectfully submit that this claim, and any corresponding dependent claims, are also allowable over the cited reference.

With specific regard to dependent Claims 11-16, Applicants note that Gruse does not disclose, or suggest, the more detailed features recited in these claims. Specifically, in support of the rejection of Claim 11, the Official Action notes column 55, line 47 through column 56, line 20 of Gruse. Applicants note that this portion of the Gruse reference relates to the completion of an encoding process. Specifically, this portion of Gruse is related to workflow and the time in which jobs in a cue for encoding are completed. While the words “predetermined” and “time” appear in this passage, the time to encode a job in accordance with Gruse has absolutely nothing to do whatsoever with a predetermined time, which is used as a threshold for determining whether or not content may be duplicate, as recited in Applicants’ Claims 11, 13, 15, and 16.

With respect to Claim 12, Applicants note that Claim 12 recites a more detailed aspect of the Applicants’ advancements in which duplicate of the content is allowed when discrimination information and temporal data of the content to be duplicated is not stored in a database. As noted in the Official Action, the support for rejecting this claim based on Gruse was cited as column 61, line 37 through column 62, line 32. Applicants note that this portion of Gruse merely specifies a date range of availability of an offer for purchasing a transaction. In other words, the period of time during which the purchase/rental transaction is allowed to occur.<sup>3</sup> The time of offering content has nothing to do with the duplication of that content based upon temporal data or discrimination data, as recited in Applicants’ Claim 12. As such, Claims 11-16 are allowable for these additional reasons.

Accordingly, Applicants respectfully request that the rejection of Claims 2-8, 10-13, 15, and 16 under 35 U.S.C. § 102 be withdrawn.

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<sup>3</sup> Gruse at column 62 (4).

CONCLUSION

Consequently, in view of the foregoing amendment and remarks, it is respectfully submitted that the present Application, including Claims 2-8, 10-13, 15, and 16, is patently distinguished over the prior art, in condition for allowance, and such action is respectfully requested at an early date.

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